

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

FRANCIS HELMER,

Petitioner,

v.

Civil Action No.
9:09-cv-487 (GLS/ATB)

SUPERINTENDENT,

RESPONDENT.

APPEARANCES:

OF COUNSEL:

FOR THE PETITIONER:

FRANCIS HELMER
Plaintiff, *Pro Se*
08-A-4467
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562

FOR THE RESPONDENT:

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
120 Broadway
New York, New York 10271

LEILANI J. RODRIGUEZ, ESQ.
Assistant Attorney General

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-
Recommendation by Magistrate Judge Andrew T. Baxter, duly filed May 3,

2010. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Andrew T. Baxter filed May 3, 2010 (Dkt. No. 27) is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the petition is DENIED and DISMISSED; and it is further

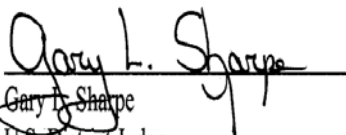
ORDERED, that since the petitioner has failed to make a substantial showing of a denial of a constitution right, a certificate of appealability will not be issued, and it is further

ORDERED, that the clerk enter judgment in favor of the respondent, and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: May 26, 2010
Albany, New York


Gary L. Sharpe
U.S. District Judge